

LOUISIANA SHRIMP TASK FORCE

MINUTES

October 26, 2009

ROBERT BARHAM
CHAIRMAN

LOUISIANA ROOM
LOUISIANA DEPARTMENT OF WILDLIFE & FISHERIES
2000 QUAIL DRIVE
BATON ROUGE, LOUISIANA

AGENDA

- I. Call to order
- II. Roll Call
- III. Approval of October 12, 2009 Minutes
- IV. Presentation of Market Maker, Kris Van Orsdel
- V. Presentation, Milling Benson Woodward LLP
- VI. Individual Agency Tasks
 - a. LDAF
 - b. Louisiana SeaGrant
 - c. LDWF
 - d. Task Force action items
- VII. Agency Updates
- VIII. Set Next Meeting Date
- IX. Public Comment

MINUTES OF THE MEETING

OF

THE LOUISIANA SHRIMP TASK FORCE

Monday, October 26, 2009, 1:30 PM

Randy Pausina, Louisiana Department of Wildlife & Fisheries, presiding.

Jody Montelaro – Louisiana Governor's Office
Dr. Mike Strain – Louisiana Department of Agriculture and Forestry
Kelsey Short – Louisiana Department of Economic Development
Cathy Breaux – Louisiana Workforce Commission
Stacie Deblieux – Louisiana Attorney General's Office
David Guilbeau – Louisiana Department of Health and Hospitals
Kris Van Orsdel – Louisiana Recovery Authority
Danny Babin – Representative of Shrimp Processor Advisory Panel
Clint Guidry – Representative of Shrimp Harvester Advisory Panel
Ewell Smith – LA Seafood Marketing and Promotion Board
John Finley – LSU Department of Food Science
Mark Schexnayder – Louisiana Sea Grant

Absent – Mike Travis, NOAA Fisheries

Randy Pausina called the meeting to order.

Mike Travis was absent; all other members were present.

Mr. Pausina began the meeting by reviewing the motions from the previous meeting.

Motion to amend minutes from previous meeting adding to page 3 after “SSA members” ‘and review settlements from importing companies’ made by Clint Guidry. Seconded. Motion carried unanimously.

Motion to approve amended minutes from previous meeting made by Kris Van Orsdel. Seconded by Ewell Smith. Motion carried unanimously.

Kris Van Orsdel gave a oral presentation on the Market Maker program and summarized below:

MARKET MAKER – SHRIMP TASK FORCE

One of the main items we have been hearing from the shrimpers and fisherman post storms is that to not only recover from the hurricanes but survive and compete in the current economic climate- our fisherman need better and more direct access to markets so they can get higher prices and differentiate their products. As part of the recovery progress, HUD gave the State via its CDBG allocation an ability to address not only direct losses but to help communities and business with economic recovery and revitalization. (\$250m- 1+b loss statement)

As members of the shrimp task we have been charged with finding and developing solutions to address not only a vital economic engine to the State, and our rural economies, but to maintain one of our nation’s most important fisheries and truly a defining element of the south and Gulf Fishery. The IO of fishing is huge. (7:1) (12:1) . On numerous occasions during public comment so far, this body has also heard from shrimpers who say they need more direct access to markets, so they can sell fresh LA caught shrimp for a higher price. The shrimpers have also said that they want us to take a look at our marketing efforts and consider fresh innovative approaches.

While we will continue to listen and will work to develop, short, medium and long term solutions both within LA and at the Federal level to address some of the large systemic issues, like inspections, imports, product handling and safety, so that economically the industry can compete in a global marketplace in the years ahead, I want to inform you today about one small step we are taking on the marketing side, that we feel has large opportunities for our shrimpers and fisherman, via a product called MarketMaker.

MarketMaker is a innovative web based marketing clearing house, that directly links commodity based sellers (fisherman -Farmers) with buyers for their products (restaurants, etc) via the net. Created by the U of I, once a state makes a financial commitment, ALL commodity based producers in that State can access and use the product. It is not “owned” by WDB or processors but open to ALL producers.

LA will be one of the 1st states to use MarketMaker for seafood products and as one of 15 states in the nation to sign up so far, we will be a leading State by truly using 21st century technology to help our rural commodity producers. The Cooperative Extension Directors in each state are also behind this tool so it will grow. With a very strong recommendation from Sec. Barham, Vice Chancellor Coriel and Commissioner Strain and after learning much more about MarketMaker from LSU’s professors we have decided to move ahead with beginning to acquire this product, as it’s an urgent need.

We will use \$125k of LRA/LDWF CDBG funds to provide the fishing industry access to the site for 3 years. We will create a direct relationship with LSU Ag Center to implement and manage MarketMaker. LSU via its vast network of extension offices will work directly with our seafood producers and farmers in their communities, to create web presences for individual businesses that want to participate. If there are technology challenged businesses, they can meet with LSU staff and get help building web presences and get online in their communities. I will also be speaking to LED and LCTCS about seeing if there are possibilities that they can further assist so that our fisherman and our wives, girlfriends, sons or daughters can help create the appropriate web content via courses so that these small businesses have the

right tools to fully maximize this product (flash etc). At the end of the 3rd year, commissioner Strain has agreed to find resources to cover the maintenance fee in future years.

As we all know, gaining access to, or rather re-gaining access to markets after the storms, staying in them and having the ability to develop new markets has been very difficult for our fisherman. This is not just because we have had 4 hurricanes in three years, and because we're going through one of the worst global recessions in our generation, but with national unemployment rates being over 10%, shrimp and seafood outside of LA are seen as "luxury" items and demand has fallen off but will return. To LA shrimps, crabs and oysters are day to day foods and not luxury items but normal family meal options that are actually cheap and plentiful. Having MarketMaker may help our bottom lines in LA and make seafood and protein cheaper in areas like Madison WI, Lincoln NE, Denver Co.

Another defining characteristic of the LA fishery that is also an important part of our culture is that most of the LA industry can be characterized as being comprised of small firms living in rural communities. Markets are a long ways away and less than 10% of the seafood we land is consumed in LA. Market Maker can help reduce these distances in a cost efficient manner that helps ALL of LA fisherman BUT IT WILL ONLY WORK AS LONG AS the product you sell are of high quality and standard.

Not only does MarketMaker allow direct marketing of its products by producers, but it also allows buyers to know something about who they are purchasing from (important these days) and how the product they are buying was produced (fresh, farmed -organic with or without chemical etc) via the web pages and portals that are created by the sellers. These are all items that we have heard mentioned in public comment. MarketMaker also allows a restaurant in say Portland Ore for instance to post that it wants to buy 50 lbs of fresh not frozen gulf shrimp at a certain size and sellers could offer prices, we can fill those requests and keep them as long as our quality is high. The LDWF and Louisiana Shrimp task force was tasked with helping to create solutions that will enable the industry to compete in the years ahead in a truly global marketplace. We were tasked with not only meeting but in getting something tangible done. MarketMaker is a small but needed 1st step. It has the potential to help Louisiana's seafood industry compete, whether it's an individual shrimper or large firms in the seafood distribution chain. There will be many more steps to come

From a State perspective, I hope that Market Maker shows what State agencies tasked to work to together across agencies can do to achieve solutions. We do however want to know that this while this is a small investment in dollars that it's a wise one. We therefore will track from a CDBG perspective, how many seafood businesses we get online and in what parishes, and I hope as we learn more about what MarketMaker can do and we work to re-build, position and modernize the industry together, that we will have the ability to track MarketMaker's effectiveness, whether its generating sales opportunities or determining what additional skills were learned from this tool (flash whatever). The LRA/LDWF and Task Force know this is an urgent need and in the next month or so LDWF and LSU should start to have more firm commitments of plans moving forward which will be well publicized in local communities.

So to close, while market maker is relatively new, LA will also be one of the 1st to use this product to assist our fishery. The State will work aggressively through LSU and Seafood promotion marketing board to get the product into the hands of the business community. We hope that our fisherman will see using MarketMaker as an opportunity to create, sustain or improve their businesses by using web portals equally and without regard to location, size and that by using \$125k of LRA/LDWF Disaster CDBG recovery funds from our coastal community fishery recovery program that it benefits the industry.

Mr. VanOrsdel stressed that help will be available to any fishers or processors who need it when setting up a website for their products. He also mentioned that there will be no cost to participate for the first three years.

Mr. Pausina invited Ms. Marie Breaux, an attorney with Milling Benson Woodward, LLP to give her presentation.

Ms. Breaux said that the major problem in the Louisiana shrimp industry is that it is currently in a commodities market. She said that the solution is to sell a certified product. She gave

examples of commodities versus certified products including: onions/Vidalia, hams/Parma, brandy/Cognac, beef/Angus or Kobe.

Ms. Breaux explained that a certification program needs standards, a certifier, marketing and distribution, and enforcement to be effective. Standards include a geographic tie, methods of production, quality or grades, and a story. Certifiers can be cooperatives, associations, independent bodies, government agencies, or some combination thereof. She said that Louisiana shrimp could use a combination involving a government agency. Marketing includes the selection of a mark, an advertising/marketing program, and distribution. Enforcement is required and involves technology, licensing, registration, and busting cheaters.

Ms. Breaux said that certification is more than just passing inspection and used Vidalia onions as an example that Louisiana could use when planning how to certify shrimp. She said that certification is also different from boosterism, i.e. calling a product certified Cajun or Creole without having a true certification program to back the name up. She then used the example of brandy versus Cognac. Brandy can be made and marketed by anyone who wants to use that name. But to be Cognac, the product must meet exacting specifications.

Ms. Breaux said that the good news is that Louisiana shrimp has a compelling story to tell, stricter quality standards are achievable, there is political will for change, lots of lessons have been learned by others who have come along before us, and this could serve as a pilot program since there is potential for certification of other Louisiana products.

Mr. Smith stated that participation in a Louisiana certification program would be voluntary and that enforcement of standards is very important, something that the WASI program lacked.

Motion to support Seafood Marketing Board working with Milling Benson and Associates to develop a certification program for Louisiana Shrimp made by Ewell Smith. Seconded by Dr. Mike Strain. Motion carried unanimously.

Mr. Pausina asked for a review of motions and discussions from this morning's Shrimp Harvester Advisory Panel meeting.

Clint Guidry reviewed motions made at the morning meeting including; exploring and creating funding sources for legal actions pursuing anti-dumping actions on behalf of the shrimp industry, creation of a federal subsidy program for shrimpers, effective use of disaster assistance funds, representation on Davis Pond and Caernarvon project advisory committees and Governor's Coastal Restoration Committee, and moving forward with current programs.

Mr. Van Orsdel said that the Louisiana Recovery Authority met with the LDED and is looking into ways to include fishers and dealers who were excluded from the recent disaster assistance programs.

Mr. Guidry said that one group of fishers excluded from recent programs were those who were not able to immediately return to fishing after the hurricanes.

Danny Babin provided the Task Force with a document titled “Communication From Shrimp Processors Advisory Panel To The Louisiana Shrimp Task Force” which outlined recommendations to the Task Force on specific federal and state issues. He mentioned that this does not include all of the problems facing the industry. The document was entered into the record, is attached as part of the minutes, and will be available on the LDWF website.

Mr. Van Orsdel spoke about forgiving loan payments and said there was a need to identify SBA dollar amounts and that there is a possibility that folks with 4.0% interest loans will be rolled into loans with a rate of only 1.5%.

Mr. Pausina began a review of the action items with those designated to the state level.

Lieutenant Colonel Jeff Mayne from LDWF enforcement suggested language which could be used in developing a rule concerning the packaging of Louisiana shrimp, Gulf of Mexico shrimp and/or USA shrimp.

Mr. Babin urged that the punishment fit the crime for violations.

Lt.Col. Mayne explained that there would be two levels of penalties as well as seizures in this proposed plan. He said we can move forward with this since the Secretary of LDWF has authority to initiate rule-making.

Motion to request the Secretary of LDWF move forward with shrimp packaging/labeling rule making process for ‘Louisiana shrimp’ made by Dr. Strain. Seconded by Danny Babin. Motion carried unanimously.

Dr. Strain discussed the Harvesters AP recommendation of moving Fisheries to the Department of Agriculture and Forestry. He explained that the proposed plan would neither streamline government nor save money since, for example, both Fisheries and Wildlife have enforcement agents that would now be two forces rather than one and double the workforce.

Motion to put to bed idea of moving Fisheries to the Department of Agriculture and Forestry and Wildlife to The Department of Conservation made by Mark Schexnayder. Seconded by Kris Van Orsdel. Motion carried unanimously.

Mr. Pausina discussed the Harvesters AP recommendation to develop legislation to prevent the false advertising of product as Louisiana shrimp.

Mr. Pausina suggested this recommendation be included in development of rules concerning packaging.

Mr. Pausina read the Harvesters AP recommendation to seek state inspections of imported shrimp through LDHH and enact new legislation allowing LDAF to test seafood products.

Mr. Pausina suggested action on this recommendation be placed on hold until Dr. Strain provides his committee report.

Mr. Pausina read the Harvesters AP recommendation to have the AG's Office use laws presently in place and enact new legislation to fill in loopholes to discourage and limit re-boxing of imported shrimp into domestic packaging. He also read the action step and asked if the Task Force would be interested in moving forward with the proposed action step developed by LDWF.

Motion by Stacie Deblieux to meet with the Attorney General's Office and state legislators to draft legislation prohibiting and establishing penalties for the false advertisement of Louisiana shrimp and identify existing state statutes and LDAF and LDHH rules and regulations pertaining to seafood testing and recommendations developed by the Seafood Safety Task Force in order to develop comprehensive and enforceable regulations. Seconded by Cathy Breaux.

Mr. Pausina read the Harvesters AP recommendation to provide funding for necessary improvements to allow for packaging facilities and value added processing facilities and asked if the Task Force would be interested in moving forward with the proposed action step developed by LDWF.

Motion by Kelsey Short to adopt the action step to identify existing state or LDED programs that provide economic incentives or develop new legislation which provides funding. Seconded by Dr. Strain. Motion carried unanimously.

Mr. Pausina read the Harvesters AP recommendation to set up meetings with the Louisiana Restaurant Association to identify options or programs which would advertise the availability of Louisiana Shrimp and asked if the Task Force would be interested in moving forward with the proposed action step developed by LDWF.

Motion by Danny Babin to set up meetings with the Louisiana Restaurant Association to identify options or programs which would advertise the availability of Louisiana Shrimp. Seconded by Ewell Smith. Motion carried unanimously.

Mr. Pausina read the Harvesters AP recommendation to provide funding for a "branding program set-up properly and protected under the federal "Lanham Act" and ensure that any price increases gained by this effort get passed down to the fisherman. He suggested that this recommendation seems to fit in more with a certification/labeling program which was discussed earlier.

Mr. Pausina read the Harvesters AP recommendation to allow deferment of payments on disaster assistance loans taken out after the hurricanes of 2005 and 2008 (SBA, Small Business Grant and Loan programs). He stated that Mr. Van Orsdel has already initiated some discussion of this with the LRA and SBA and Mr. Van Orsdel was asked to keep the Task Force informed and report back as you move along with progress.

Mr. Pausina read the Processors AP recommendation to create a separate shrimp promotion and marketing board devoted to domestic shrimp promotion.

Dr. Strain moved to endorse creation of legislation authorizing a new Shrimp Task Force. Cathy Breaux seconded. Motion carried unanimously.

Mr. Pausina read the Processors AP recommendation to to develop legislation to increase the shrimp excise tax by 25¢ per barrel to devote to domestic shrimp promotion and marketing.

Mr. Guidry suggested researching this a bit further as the tax increase would be absorbed by the fisherman and we should examine what type of funding would be needed and how it could be obtained.

Motion by Kris Van Orsdel to have LDWF economic section conduct an economic analysis of an excise tax increase on shrimp barrel price and report back to the task force in two weeks. Danny Babin seconded. Motion carried unanimously.

Mr. Babin said that Eddie Hayes, legal representative for the processors, was not able to be at the Task Force meeting today. He also said that to his knowledge the recent years have shown the slowest production of shrimp in the history of the industry.

Mr. Pausina mentioned that letters have been sent to supermarket chains but no replies have been received. A reply was received from State Purchasing.

Dr. Strain noted that there is no LDAF seafood inspection in Louisiana and that by law, agencies can only purchase LDAF certified products.

Mr. Guilbeau mentioned that DHH is now doing the seafood inspections. He said he doesn't see a problem if another agency is doing the inspections.

In regards to the response received from the Office of State Purchasing concerning the request that state agencies purchase Louisiana shrimp, Mr. Pausina suggested the panel review the response. Dr. Strain stated that if RS 39.2101 may needed to be amended.

Mr. Pausina suggested that this action item be moved under items dealing with state legislation.

Mr. Pausina read the action adopted by the Task Force which requests LDWF to contact NOAA concerning release of CO-OP research survey funds upon receipt of an initial review for document completeness pending proper approval of the state legislative auditor. He then stated that the State Legislative Auditor met with LDWF staff and expressed that he was not in favor of allowing LDWF to bypass checks designed to ensure completeness of Cooperative Research Surveys as a means of getting fisheries disaster assistance funds out to participants more quickly.

Motion by Mark Schexnayder to put to rest expediting co-op research funds. David Guilbeau seconded. Motion carried unanimously.

There was discussion about a branding program for wild caught LA shrimp and there was general agreement that this item is somewhat duplicative as it falls within an earlier motion adopted by the Task Force which authorizes the LSPMB to work with Milling, Benson, Woodward Associates in developing a certification program

Motion to dissolve branding of wild caught shrimp action item. Seconded. Motion carried unanimously. Branding has become a component of another action which deals with packaging and labeling

Mr. Pausina gave an update on the Second Supplemental and Cooperative Research fisheries disaster assistance programs at LDWF.

Mr. Guidry asked why the cooperative research surveys had to be so long and complicated.

Mr. Van Orsdel asked if LDWF can try to work toward getting payments out to fishers and dealers upon receipt of the survey.

Mr. Pausina gave an update on the Gustav/Ike disaster assistance program at LDWF.

Dr. Strain asked if LDWF has a list of items that are eligible for fisher/dealer reimbursement under the Gustav/Ike program.

Mr. Pausina replied that the LDWF website should have a list of the eligible items posted but the site may still be under construction. He went on to explain that there is \$5 million remaining in disaster funds that can go toward projects such as debris removal and the development of a branding program for Louisiana seafood.

Mr. Pausina read the Processors AP recommendation that LDWF devote the shrimp share of unspent third supplemental hurricane disaster money to domestic shrimp promotion and marketing and the action step proposed by LDWF.

Mr. Guidry said that leftover funds should not go toward seafood promotion. He said there needs to be a steady yearly funding source for shrimp promotion. He questioned why would we use disaster money for promotion.

Dr. Strain suggested that a revised seafood promotion program could run long-term off of self-assessment. He said obtaining general funds for promotion is not going to happen.

Mr. Smith said that using funds to develop the branding/certification programs would help everyone in the industry.

Mr. Babin said he would be in support of allowing the money to go towards promotion if it would all go towards branding.

Mr. Pausina said that there's no determination on how to divide unallocated funds if it would go towards marketing and promotion.

Mr. Pausina said that updates on the three LDWF fisheries disaster assistance program would continue to be provided at future Task Force meetings.

Motion to find out how much unallocated fed disaster monies are available and would be eligible under federal regulations for use in promotion and marketing activities made by Kris Van Orsdel. Seconded by Jody Montelaro. Motion carried unanimously.

Mr. Pausina called for agency updates.

Mark Schexnayder reported working on Seafood Cooperatives and that someone in the Department of Ag Economics will be involved and will present a report at the next meeting. Mr. Schexnayder talked about two reports developed in 1998 and 1999 concerning opportunities for shrimp resource management. He said that management strategies may need to be explored such as a cap on licenses, limited entry, etc. He said he would like to report to the Harvester Advisory Panel about these recommendations particularly license caps and limited entry.

John Finley explained that the LSU Department of Food Science is currently working on a tracing program that will be able to positively identify Louisiana shrimp on an individual level. They can also detect abuse to the shrimp versus those of higher quality using infrared light. Dr. Lampille at LSU will be getting a refurbished device soon to detect abused shrimp. He said the tool would be used for traceability, detection, and cross contamination. He proposed validating the sensory quality of Louisiana shrimp both for offshore and near shore harvesting.

Kelsey Short said that he would like to work with Ewell Smith to find funding for the branding of Louisiana shrimp. He said the Department of Economic Development is encouraging investment in value added processes.

Dr. Strain said that his agency is working with the Legislature and the Attorney General's Office looking at current codes and laws about inspections. He said they have a draft letter of 'asks' for the Federal Delegation and reviewed these which include;

- 1) Redirection of funds of future collected tariff money to benefit the seafood industry for portions of commodities for which they are allocated
- 2) Legislation to strengthen country of origin labeling to close possible loopholes for the entry of imported seafood and the inclusion of food service establishments
- 3) Additional funding and authority for enforcement, testing and marketing related to the domestic seafood industry

He also talked about the idea of voluntary inspections as a starting point, the TAA program, and the need to review a proposed rule on the website to determine eligibility and if the industry can participate..

Motion by Kris Van Orsdel to bring voluntary certification program guidelines to the Task Force for the next meeting. Second by Danny Babin. Motion carried unanimously.

Ewell Smith mentioned crop insurance for oyster fishermen as a guideline for a shrimp program.

Mr. Babin said the Processor Advisory Panel is communicating weekly through conference calls.

Mr. Pausina suggested November 9th at 1:30pm as the next meeting time.

Mr. Pausina opened the floor for public comment

Ronnie Anderson asked why buyers do not purchase Louisiana shrimp even though the prices are lower than imported shrimp. He also said that the MarketMaker program needs to follow through with license requirements and stiff penalties for rule breakers.

Dr. Strain said that there will be talks soon with industry buyers about what is wanted. He also cautioned that fines for rule breakers need to be low enough to be prosecutable.

Mr. Anderson asked if a fresh product license will be sufficient for the MarketMaker program.

Mr. Van Orsdel said that he believed it would be enough.

Dr. Strain said that the board reviewed the program, and that there are some loopholes, and we need to make sure that it's all within compliance.

Mr. Van Orsdel stated we will make it work and that he will report back with more details.

Mr. A.J. Fabre, Shrimp Harvester Advisory Panel member, thanked the panel for their efforts and went on to explain that without a stiff penalty cheaters are not really punished. If one truck of shrimp can yield a \$50,000 profit, one fine of \$500 will not dissuade the owner from the same plan the very next day. He suggested that to put teeth in the rule, a company should be shut down after a fine and seizure until the case is resolved.

Mr. Babin stated that seizures would be a good way of penalizing violators. He asked that anyone stating dollar amounts should have written evidence for the Task Force to examine.

Stacie Deblieux suggested that current laws could be looked at to see where revisions could be made to make consumer protection violations injunctive. She also mentioned looking at seizure authority.

Mr. Babin asked if the FDA has seizure authority.

Mr. Guilbeau replied that they do not.

Dr. Strain said that a discussion on seizure needs to happen including a method of storing seized product and for destroying tainted product.

Representative Harrison said that the tariff law is up for renewal in February and could undermine the industry if the tariff is too low. He said the state needs to get with congressional delegation to fight for maintaining or increasing tariffs, since the resulting tariffs will be locked in for the next 5 years. He mentioned a cold storage facility planned for the Houma/Thibodaux area, Byrd funding, anti-dumping, and selling the shrimp product. Rep. Harrison also mentioned that an increase in barrel price could be devoted to promotion and working with the Sysco company.

Mr. Van Orsdel said that Sysco is on the list of companies to talk to. He said they are still looking at getting a number of the current inventory in cold storage

Dr. Strain asked if the cold storage product information would be broken down by size.

Mr. Babin said that the demand is currently for larger than 30 count size shrimp and that the farm-raised variety can simply wait until the shrimp grow to desired size before harvesting.

Timmy Truong, a member of the Shrimp Harvester Advisory Panel said that before September 11th there was no problem with the shrimp quality and that historically the price at the dock always went up, but now keeps going down. He suggested that the best way to bring the price at the dock up is to make the dock pay a certain price based upon what they sell the shrimp for.

A shrimp harvester from the audience stated that there is a need to store small size shrimp until it can be sold and asked who could be called upon to inspect trucks.

Motion to adjourn made by Dr. Strain. Seconded Ms. Breaux. Motion carried unanimously.

[Attached Mr. Babin's Shrimp Processor Advisory Panel document]

**COMMUNICATION FROM SHRIMP PROCESSORS ADVISORY PANEL
TO THE LOUISIANA SHRIMP TASK FORCE**

To: Louisiana Shrimp Task Force

From: Shrimp Processors Advisory Panels

Date: October 22, 2009

Re: Recommendations to the Task Force on Specific Federal and State Issues

The Shrimp Processors Advisory Panel has discussed various federal and state issues that need attention. The following is a list of issues that we recommend for the task force's consideration. Under each item we provide a specific request from the task force to implement the item.

A. Federal Issues

1. Circumvention of Shrimp Antidumping Orders

There are currently five antidumping orders in place on shrimp from Brazil, India, Vietnam, China, and Thailand.¹ These countries combined to represent 74.3% of imported shrimp in 2003. As a result of the antidumping orders, imports of shrimp from these countries declined by 18.5% (2003-2005). However, exporters are circumventing the orders through transshipment of shrimp through other countries not subject to the orders. The International Trade Commission has reported that "there was some evasion of the duties, especially by Chinese exporters, from transshipment through other countries."² The facts support the ITC's report. From 2003-2005, imports of shrimp covered by the antidumping orders from countries that are not subject to the orders increased 46.4%, with the majority of the shrimp coming from Malaysia, Indonesia and Bangladesh. Unsurprisingly, China's exports of covered shrimp to these countries increased dramatically since the entry of the orders in 2003.

Request: We ask the task force to request that the Governor, our legislature and our entire federal delegation immediately demand an investigation by the Department of Commerce and Customs and Border Protection to determine if imported shrimp from these countries actually originate from countries subject to antidumping orders and to vigorously pursue anti-circumvention remedies, including retroactive collection of duties that would have been paid and prohibition of imports from countries that are complicit in transshipment.

¹ See *Certain Frozen Warmwater Shrimp and Prawns*, A-351-838 (Brazil); A-533-840 (India); A-552-802 (Vietnam); A-570-893 (China); and A-549-822 (Thailand). An Order was initially imposed on shrimp from Ecuador, A-331-802, but it was subsequently revoked effective August 15, 2007 as the result of a World Trade Organization dispute settlement proceeding.

² See *USITC Pub. 3813* at II-9 (2005).

2. Undercollection of Shrimp Antidumping Duties

Another issue decreasing the efficacy of the antidumping orders is the significant amount of uncollected duties. As of 2008, there were over \$42 million dollars in uncollected duties, including \$38 million dollars in uncollected duties from China. If Customs does not collect duties from exporters subject to antidumping orders, then the orders will not work.

Request: We ask the task force to request that the Governor, our legislature and our entire federal delegation immediately demand an investigation into undercollection by Customs and Border Protection, immediately address and seek collection of duties, and legislatively develop methods to permanently address undercollection of antidumping duties.

3. Defending Antidumping Orders at Sunset Review

The shrimp antidumping orders are subject to Sunset Review at the International Trade Commission in February, 2010. In order to present our case to the ITC that the orders should remain in place, we need to develop a significant amount of information regarding the ongoing harm dumped imported shrimp are causing to the domestic industry. We already have the necessary counsel, economists and trade consultants for this effort but need monetary assistance in order to pay for this legal battle. Counsel for the shrimp importers have already stated that they will vigorously fight to have the orders revoked. We cannot afford to lose this battle at this critical juncture.

Request: We ask the task force to request from the Governor and our legislature a specific allocation of funds to pay for the legal costs of defending the shrimp antidumping orders at the ITC sunset reviews scheduled for February, 2010. The current estimate of the legal cost is \$250,000.00. Because these orders are also important to the other Gulf South shrimp harvesters and shrimp processors, we ask the task force to request that the Governor and our legislature seek contributions to the legal fund from their colleagues in Texas, Mississippi, Alabama and Florida.

4. Reimbursement of State Funds From Southern Shrimp Alliance

The State of Louisiana entered a Cooperative Endeavour Agreement with the Southern Shrimp Alliance at the outset of the antidumping case, under which the State of Louisiana provided \$600,000.00 to help defray the legal costs of bringing the original Antidumping Petition. After the case was successfully instituted, the Southern Shrimp Alliance entered into a series of monetary settlements with foreign shrimp producers in exchange for dropping administrative review requests of the antidumping orders. The Southern Shrimp Alliance netted over \$18 million from the settlements but did not distribute any of those funds to the domestic shrimp industry. The Southern Shrimp Alliance purportedly refunded the State of Louisiana \$350,000.00 of the \$600,000.00

provided under the Cooperative Endeavour Agreement. However, that money has not been distributed to the Louisiana shrimp industry, which has been forced to retain separate counsel to prosecute the case on its behalf because of conflicts of interest with the Southern Shrimp Alliance.

Request: We ask the task force to request the Governor, our legislature and our Attorney General to use all means necessary to seek the additional \$268,000.00 owed to the State of Louisiana and for an accounting of any money already sent to the state. We further urge the task force to allocate any and all such funds to pay for the legal costs of defending the shrimp antidumping orders.

5. WTO-Compliant CDSOA law

The Continued Dumping and Subsidy Offset Act ("CDSOA", commonly referred to as the Byrd Amendment) was revoked effective October, 2007. Any and all antidumping duties collected on dumped shrimp after that effective date move directly into the US general fund. We believe that the money should be used to support the industries directly affected by the dumped imports. We recognize that any new legislation similar to CDSOA must be WTO-compliant but strongly believe that antidumping duties should flow back in some manner to the industry directly affected by the dumping.

Request: We ask the task force to request that our federal delegation begin work on a WTO-compliant law that would allow antidumping duties collected after October, 2007 to be used for the assistance of the domestic industries directly impacted by the dumped imports.

6. Enhance Food Safety Inspection

The use of dangerous antibiotics, pesticides and other harmful chemicals is widespread in foreign farm-raised seafood. These chemicals pose a substantial threat to the safety of our domestic consumers. The Food and Drug Administration has confirmed the use of chloramphenicol and nitrofuram in imported shrimp.³ Customs needs to aggressively test imported shrimp to ensure consumer safety. To the extent testing shows a widespread problem, there are a variety of remedies available to us, including an outright ban on shrimp imports from countries that use harmful chemicals. The World Trade Organization Agreement on the Application of Sanitary and Phytosanitary Measures allows Members to impose restrictions on trade to ensure that food is safe for consumers, and to prevent the spread of pests or diseases among animals and plants. These sanitary and phytosanitary measures can take many forms, such as requiring products to come from a disease-free area, inspection of products, specific treatment or processing of products, setting of allowable maximum levels of pesticide residues or permitted use of only certain additives in food and an import ban on unsafe products.

³ See 74 Fed. Reg. 15,497 (April 6, 2009) (notice of public hearing and request for comments).

The US Congress has previously imposed a ban on imports of poultry from China because of safety concerns. The US has worked with China on an inspection system to ensure the safety of the poultry and will soon begin to allow imports again. The European Union blocked imports of US hormone-treated beef on the grounds that the hormones posed a substantial safety hazard. If the scientific evidence regarding chemical use in imported shrimp shows a substantial health risk, then legislation and/or regulations should be enacted in compliance with the SPS Agreement to prevent those imports.

Request: We ask the task force to request that the Governor, our legislature and our entire federal delegation immediately demand an investigation by the Food and Drug Administration, Department of Agriculture, Customs and Border Protection and any other agency with jurisdiction over this issue, into the safety of imported shrimp. To the extent testing shows problems that pose a risk to the health of our domestic consumers, appropriate SPS measures should be implemented to block imports of shrimp from those countries.

7. Import Prohibition on Shrimp from Thailand

Shrimp from Thailand account for the majority of shrimp imported into the United States. The United States is prohibited by law from importing goods made with forced labor or the worst forms of child labor. *See* 19 U.S.C. §1307. On September 10, 2009 the Department of Labor's International Labor Affairs Bureau released its 2009 report on the list of goods produced by child or forced labor. Shrimp from Thailand is included in the report and Thailand is listed as a country that produces shrimp through both child labor and forced labor.⁴ The law does not operate on its own and Customs and Border Protection must be forced to carry it out.

Request: We ask the task force to request that the Governor, our legislature and our entire federal delegation immediately demand that Customs and Border Protection implement the provisions of 19 U.S.C. §1307 and block shrimp imported from Thailand and any other country that is using child or forced labor to produce the product.

8. Potential Section 201 Trade Remedies on Imported Shrimp

If imported shrimp are flooding our domestic market in such quantities that they are causing serious injury to our domestic industry, then a Section 201 trade action can be brought.⁵ This type of import relief, commonly referred to as a "safeguard" or "escape clause" action, involves determinations by the International Trade Commission and recommendations for action to the President, who has a range of remedies available to him to restore fair competition to the marketplace. As you may recall, President Bush imposed tariffs on imported steel in a prior Section 201 case and President Obama

⁴ Other countries exporting shrimp on the list include Bangladesh (child labor), Burma (forced labor) and Cambodia (child labor).

⁵ *See* 19 U.S.C. § 2251, et seq.

recently used a similar law that is China-specific regarding the import of tires made in China.

Request: We ask the task force to request from the Governor and our legislature a specific allocation of funds to pay for the legal costs of investigating whether a Section 201 trade remedy may be appropriate on imported shrimp. The current estimate of the legal cost for this investigation and an appropriate recommendation and report is \$30,000.00.

9. Country of Origin Labeling

The vast majority of shrimp are consumed in the institutional trade. We need country-of-origin labeling at every end point of sale, especially restaurants. The 2002 and 2008 US Farm Bills amended the Agricultural Marketing Act of 1946 to require retailers to notify customers of the country-of-origin of certain commodities, including shrimp. On January 15, 2009 the Agricultural Marketing Service published a final rule implementing the country-of-origin statutory requirements.⁶ The final rule falls significantly short as it exempts food service establishments, including restaurants, cafeterias, lunch rooms, food stands, saloons, taverns, bars, delis and in-store food stations from the labeling requirements.

Request: We ask the task force to request that the Governor, our legislature and our federal delegation request expanded COOL requirements to include food service establishments under the current law or under a new law.

B. State Issues

1. Katrina/Rita/Gustav/Ike Recovery Funds

The funding available through disaster programs implemented in the wake of these storms is desperately needed by members of our industry. At the most recent meeting Mr. Van Orsdel suggested that an additional \$5mm may be available.

Request: We ask the task force to work with all relevant state agencies to increase the speed of processing applications and distributions of these funds to all eligible applicants.

2. Forgiveness or Deferral of Disaster Loan Payments

Many members of our industry borrowed money through either state or federal government disaster loan programs to re-start business after the hurricanes. Many of these loans have entered repayment and the current economic conditions of our industry make it very hard for many to meet their loan obligations.

⁶ See 74 Fed. Reg. 2658 (January 15, 2009).

Request: We ask the task force to request that the Governor, our legislature and our federal delegation work on forgiveness and/or deferral of payments on disaster loans in light of the current economic hardship facing the shrimp industry.

3. Trade Adjustment Assistance

This past session, Congress passed the Trade and Globalization Adjustment Assistance Act of 2009 as part of the American Recovery and Reinvestment Act of 2009. The new Trade Adjustment Assistance (TAA) legislation significantly expands coverage to new workers and firms and re-authorizes funding for all current TAA programs. The TAA for Communities program is a significant addition that authorizes \$230 million per fiscal year for TAA for communities affected by trade. Some of our local parishes and communities may be eligible for additional funds under this new program. We have contacted Loyola Law School in New Orleans and it has committed to provide pro bono legal assistance through its law clinic to facilitate TAA applications.

Request: We ask the task force and the LA workforce commission representative to expedite efforts to file all necessary applications for individual and/or community-wide TAA assistance.

4. Certification, Marketing and Labeling of Wild Caught American Shrimp

Perhaps the single most effective way of addressing the demand issues facing the domestic shrimp industry is to adequately fund an effective certification, marketing and labeling program that differentiates domestic wild caught shrimp from imports. The Louisiana shrimp industry cannot survive with a 4.78% domestic shrimp consumption rate. The demand side has to be addressed through an aggressive marketing program. During recent meetings Dr. Strain and others discussed a certification program that would address and confirm the quality and authenticity of domestic shrimp from the boats to the dinner plate. In addition, we discussed the need for a shrimp marketing campaign and a shrimp marketing board or task force specifically devoted to the marketing of domestic Louisiana shrimp. The presentation made by Mr. Doug Short provided a good example of how these efforts can not only yield a better price, but also recapture market share from imports.

Request: We ask the task force to continue to discuss the parameters of this proposed program and once agreed upon, that the task force seek all necessary funding from the Governor, our legislature or from any other available source. We further urge the task force to consider the recommendation of increasing the shrimp excise tax by at least 25 cents per barrel to devote to domestic promotion and marketing.

5. Louisiana Restaurant Labeling

In addition to federal efforts to supplement current COOL requirements, we need to make sure that our Louisiana restaurants and other food service establishments provide their customers with the option of selecting Louisiana seafood, including shrimp. We need to work cooperatively with the Louisiana Restaurant Association to show that all sides will benefit from the marketing of LA seafood.

Request: We ask the task force to work with the Governor, our legislature and the Louisiana Restaurant Association to develop a program requiring labeling of seafood to both encourage consumption of domestic seafood and obtain a higher price on our product.